

# **Chapter 32**

## **Residential Rental Property Registration**

### **Version 8.4**

#### **Administration**

##### **Section 32.100 Administration**

###### **Sec. 32.110 Title**

These regulations shall be known as the “*Residential Rental Property Registration*” code of San Marcos, Hays County, Texas, hereinafter referred to as “this code” or “provision.”

###### **Sec. 32.120 Applicability**

The provisions of this code shall apply to all existing and future residential rental properties, units and accessory structures therein.

###### **Sec 32.130 Purpose**

The purpose of this chapter is to safeguard the life, health, safety, welfare, and property of the occupants of single family and multi-family residential rental units and the general public by developing a process to identify and notify owners regarding minimum building standards, complaints and property maintenance codes in a timely manner.

###### **Sec. 32.140 Severability**

If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

###### **Sec. 32.150 Applicability and Administration**

1. This chapter shall apply to all registrants of rented residential Single-family homes, Manufactured/Mobile Homes, Duplexes, Owner-Occupied units and Multi-family units located in the City of San Marcos.
2. The Code Official – City Marshal, the Marshal's authorized representatives, Neighborhood Services and other city personnel authorized by the Code Official may enforce the provisions of this code.
3. All residential rental properties within City of San Marcos shall be registered with the City of San Marcos.

### **Sec. 32.160 Application Outline**

1. Application for rental registration shall be made upon a form prescribed by the City of San Marcos for such purpose, and shall include at least the following information:
2. Owner's name, business address, home address, work telephone number, electronic mail address, personal identification number, date of birth or other identifying means;
3. If owner is a partnership, the name of all partners, the principal business addresses, and contact information of each partner;
4. If owner is a corporation, the person registering must state whether it is organized under the laws of this state or is a foreign corporation, and must show the mailing address, business location, telephone number, electronic mail address, contact information and name of the primary individual in charge of the local office of such corporation, if any, and the names of all officers and directors or trustees of such corporation, and, if a foreign corporation, the place of incorporation;
5. Name, address, electronic mail address and telephone number of the property manager or management company (if any);
6. Street address of the rental unit;
7. Number of persons the rental unit is designed to occupy;
8. Whether there has been a change of occupancy use;
9. The name(s), address, electronic mail address and phone number (24 hour contact number) of designated employee(s) or authorized representative(s) who shall be assigned to respond to emergency conditions. Emergency conditions shall include but not limited to; fire, natural disaster, flood, burst pipes, collapse hazard, emergency repairs and violent crime;
10. Signature or electronic signature by the registrant;
11. The name and contact information of any mortgage lien holders.

## **Definitions**

### **Sec. 32.200 Definitions**

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated. Where terms are not defined, they shall have their ordinary accepted meanings.

Code official means any official who is charged with the enforcement of this Code, as prescribed by the City Marshal.

Complex – see Multi-family unit (MFU)

Duplex Unit (DU) – (two family dwelling) - as defined by the International Building and/or Residential Code

Registrant means the owner, landlord, operator, and lessor, Management Company, managing agent or on-site manager of a rental unit or multi-family dwelling unit.

Multi-family unit (MFU) - means any building or portion thereof which is designed, built, rented, leased, or let to be occupied as three (3) or more dwelling units or apartments. The term shall not include hotels, motels, nursing facilities, or assisted living units.

Occupant means any individual living or sleeping in a building, or having possession of a space within a building. This includes, but is not limited to, persons that reside at a residence the majority of 21 calendar days, regardless if that person pays rent or provides in-kind services. The person is not required to have a lease, contract or other legal document to be considered an occupant.

Owner means any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or Code Official of the estate of such person if ordered to take possession of real property by a court.

Owner-occupied rental unit a dwelling unit in which at least one owner of record of the property resides as his/her primary dwelling

Premises mean a lot, plot or parcel of land, easement or public way, including any structures thereon.

Registrant means owner, manager or representative of a property.

Rental unit means a structure or portion thereof that is rented or offered for rent as a residence; including but not limited to, single-family unit, duplex unit, tri-plex, quad-plex unit, multi-family unit, owner occupied rental unit, manufactured or mobile home unit, town home or condominium.

Single Family Unit (SFU) as defined by the International Building Code

Unit refers to rental unit.

## **Residential One and Two Family Rental Property Registration**

### **Sec. 32.300 Residential Rental Property Registration Required – One and Two Family Properties**

#### **Sec. 32.310 Registration Timeline**

Each registrant of a rental unit within the City of San Marcos shall register each such rental unit with the City of San Marcos before January 1st of each year, or as prescribed in 32.360, and shall renew such registration annually on the date prescribed by the City of San Marcos pursuant to 32.410.

#### **Sec. 32.320 Separate Registration Required**

Separate registration shall be required for each rental unit.

#### **Sec. 32.350 Registration Expires**

A residential rental property registration shall be valid for no more than 12 calendar months.

**Sec. 32.360 Geographic Designation**

The City of San Marcos, may by administrative order, divide the city into four or more geographical areas and establish annual registration dates for rental units located within each geographical area. A copy of the geographical designation shall be on file with the Code Official.

**Sec. 32.370 Incomplete Application**

Incomplete applications will not be processed and a residential rental property registration will not be issued.

**Sec. 32.380 Liability**

Neither the registrant, it's officers, employees, agents, and representatives, nor any person, who is in good faith carrying out, complying with, or attempting to comply with, release of information pursuant to the provisions of this chapter shall be liable for any such activity.

**Renewal of Residential Rental Property Registration****Sec. 32.400 Renewal of Residential Rental Property Registration – One and Two Family Buildings****Sec. 32.410 Registration Renewal Required**

A registrant, owner or designee of a rental unit within the City of San Marcos shall renew the residential rental property registration for each rental unit on or before the expiration date displaced on the residential rental property registration.

**Sec. 32.420 Registrant Registration Responsibility**

It is the registrant's responsibility to renew the registration for each rental unit within the City of San Marcos.

**Operational Registration Required****Sec. 32.500 Operational Registration Required - Multifamily****Sec. 32.510 Scope**

The provisions of this code shall apply to all existing and future multifamily residential rental properties with three or more attached units and accessory structures therein.

**Sec. 32.520 Registration Required**

All multifamily unit complexes operating on the same lot located inside the City of San Marcos are required to obtain an operational registration from the City of San Marcos.

**Sec. 32.530 Time Line**

Applications are due by October 1st of each calendar year.

**Sec. 32.560 Renewals or Change of Status Notice Required**

If a change in ownership or trade name occurs for the a premise prior to the expiration of the permit, the registrant of the premise shall have thirty (30) days from the date the change of ownership occurred to file a new registration with the City of San Marcos and pay the applicable fee.

**Sec. 32.570 Liability**

Neither the Registrant, it's the officers, employees, agents, and representatives, nor any person, who is in good faith carrying out, complying with, or attempting to comply with, release of information pursuant to the provisions of this chapter shall be liable for any such activity.

**Sec. 32.580 Exception**

Properties (buildings) specifically registered as members, or affiliate members with property designation of the Achieving Community Together (ACT) program are not subject to this provision. If a property, member or affiliate withdraws or is suspended from the ACT program this provision shall apply before the end of a thirty day period from date of separation.

## **Offenses and Enforcement**

**Sec. 32.600 Offenses****Sec. 32.610 Registrant Offenses**

A registrant and/or managing agent(s) commits an offense if the registrant/agent:

1. Operates a rental unit that is not registered with the City of San Marcos;
2. Fails to renew registration;
3. Registers past deadline of required registration;
4. Omits, provides false or incorrect information on application;

**Sec. 32.620 Failure to Comply with Requirements of Code**

Any person, persons, firm or corporation or any others acting on behalf of said person, persons, firm or corporation violating or failing to comply with any of the provisions of this code is subject to payment of a fine not to exceed two thousand dollars (\$2000.00) plus court costs. Each act of violation and each day upon which such violation shall occur may constitute a separate offense.

**Sec. 32.630 First Violation - Conviction**

Upon determination by the City Code Official that a registered premises was used in violation of city codes, the City Code Official must give notice to the registrant of the violation and direct the registrant to take steps to prevent further violations.

Determination will be made from conviction in any court from outstanding violations of any type regarding the property. If the owner or registrant is registered with automatic electronic notification, that shall serve as proper notice of a violation.

**Sec. 32.640 Second Violation**

If another instance of violation of city codes concerning the registered premises occurs within six months of the first incident on record, the City Code Official must notify the registrant of the violation and must also require the registrant to submit a written report of the actions taken, and proposed to be taken, by the registrant to prevent further code violations on the premises. This written report must be submitted to the City Code Official within five days of receipt of the notice of code violations of the premises and must detail all actions taken by the registrant in response to all notices of code violations of the premises within the preceding six months. Failure to respond with written detail of action is considered another violation under this section. Conviction of the violation in the court constitutes a second violation.

**Sec. 32.650 Third Violation**

If another instance of a code violation of the registered premises occurs within six months after any two previous instances of code violations for which notices were given to the registrant pursuant to this section, the residential rental property registration for the premises may be denied, revoked, suspended or not renewed. An action to deny, revoke, suspend, or not renew a registration under this section must be initiated by the City Code Official who must give to the registrant written notice of a hearing before the Municipal Court to consider such denial, revocation, suspension or non-renewal.

Following the hearing, the municipal court judge may deny, revoke, suspend or decline to renew the registration for all or any part or parts of the registered premises or may grant a registration upon such terms and conditions, as it deems necessary to accomplish the purposes of this section.

**Sec. 32.660 No Adverse Action Pending Eviction**

No adverse registration action shall be imposed where the instance of a code violation of the registered premises occurred during the pendency of eviction proceedings (unlawful detainer) or within 30 days of notice given by the registrant to a tenant to vacate the premises where the disorderly use was related to conduct by that tenant or by other occupants or guests of the tenant's unit. Eviction proceedings are not a bar to adverse registration action, however, unless the registrant diligently pursues them. Further, actions to deny, revoke, suspend, or not renew a registration based upon violations of this section may be postponed or discontinued at any time if it appears that the registrant has taken appropriate measures which will prevent further instances of code violations.

**Sec. 32.670 Performance**

Properties that do not have substantiated complaints or registration violations for a contiguous three years do not have to pay a fee for re-registering properties. Should a property be found in violation and warning issued subsequent to the fees reduction, the fee will be required. Should the property change ownership a fees will be required for the three year rotation.

**Implementation**

The registration process will begin January 1, 2015 and all properties shall be registered within 90 days of that date or when the availability of the on-line registration program is launched.

**Fee Schedule****Sec. 32.700 Fee Schedule****Sec. 32.710 Time Line for Fees**

All fees are based on a calendar year. Prorated fee will not be allowed.

**Sec. 32.720 Fees Schedule**

The registrant of a rental property shall annually pay the city a fee to offset the city's cost of administration, registration and inspection.

- a. A technology fee of ten dollars (\$10.00) per rental unit (building).

**Sec. 32.730 Late Fee Schedule**

Annual registration or renewals received after expiration date shall be assessed a double fee. Nothing in this section prohibits legal action for operation of a facility without a registration or operational permit.